



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2022-0009; Project Identifier MCAI-2021-01459-R; Amendment 39-21914; AD 2022-02-17]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD)

Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model MBB-BK 117 C-2, MBB-BK 117 D-2, and MBB-BK 117 D-3 helicopters. This AD was prompted by reports of engine flame out following prolonged operations in falling snow on helicopters with an inlet barrier filter (IBF) system installed. This AD requires revising the existing Rotorcraft Flight Manual (RFM) for your helicopter, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The FAA must receive comments on this AD by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- Fax: (202) 493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; Internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. For Airbus Helicopters service information identified in this final rule, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641-0000 or (800) 232-0323; fax (972) 641-3775; or at <https://www.airbus.com/helicopters/services/technical-support.html>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. Service information that is IBRed is also available in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0009.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0009; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267-9167; email hal.jensen@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2021-0289-E, dated December 23, 2021 (EASA AD 2021-0289-E), to correct an unsafe condition for all Airbus Helicopters Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH; and Airbus Helicopters Inc., formerly American Eurocopter LLC, Model MBB-BK117 C-2, D-2, D-3, and D-3m helicopters, all variants, all serial numbers.

This AD was prompted by reports of engine flame out following prolonged operations in falling snow with the IBF system installed. The FAA is issuing this AD to prevent partial icing of an IBF engine intake and engine flame out. The unsafe condition, if not addressed, could result in engine failure and reduced control of the helicopter, possibly resulting in damage to the helicopter or injury to occupants. See EASA AD 2021-0289-E for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021-0289-E requires amending the RFM by incorporating the applicable RFM temporary revision (TR), to amend the IBF system limitations and emergency procedures sections, to include a restriction to operation in falling or blowing snow.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Other Related Service Information

The FAA reviewed Airbus Helicopters Service Bulletin SB MBB-BK117 C-2-71-005, Revision 5, dated May 31, 2017; and Airbus Helicopters Service Bulletin SB MBB-BK117 D-2-71-001, Revision 1, dated August 2, 2017. This service information specifies procedures for installing an IBF system.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union,

EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design.

Requirements of this AD

This AD requires accomplishing the actions specified in EASA AD 2021-0289-E, described previously, as IBRed, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under “Differences Between this AD and the EASA AD.”

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021-0289-E will be IBRed in this FAA final rule. This AD would, therefore, require compliance with EASA AD 2021-0289-E in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021-0289-E does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2021-0289-E. Service information referenced in EASA AD 2021-0289-E for compliance will be available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0009.

Differences Between this AD and the EASA AD

EASA AD 2021-0289-E applies to Model MBB-BK117 D-3m helicopters, whereas this AD does not because that model is not FAA type-certificated. EASA AD 2021-0289-E defines “Retrofit SB” as, “AH Service Bulletin (SB) MBB-BK117 C-2-71-005, SB MBB-BK117 D-2-71-001 and SB MBB-BK117 D-3-71-001, as applicable,

installing the IBF system,” whereas this AD redefines “Retrofit SB” because SB MBB-BK117 D-3-71-001 has not been issued.

EASA AD 2021-0289-E requires operators to “inform all flight crews” of revisions to the RFM, and thereafter to “operate the helicopter accordingly.” However, this AD does not specifically require those actions.

14 CFR 91.9 requires that no person may operate a civil aircraft without complying with the operating limitations specified in the RFM. Therefore, including a requirement in this AD to operate the helicopter according to the revised RFM would be redundant and unnecessary. Additionally, FAA regulations mandate compliance with only the operating limitations section of the flight manual. Some of the flight manual changes required by this AD apply to the emergency procedures section of the existing RFM for your helicopter. Compliance with such requirements in an AD is impracticable to demonstrate or track on an ongoing basis; therefore, requirements to operate the aircraft in such a manner are unenforceable. Nonetheless, the FAA recommends that flight crews of the helicopters listed in the applicability be made aware of the flight manual changes and that they operate in accordance with the revised emergency procedures.

In this AD, the existing RFM for your helicopter may be revised and the logbook entry for that action may be made by the owner/operator (pilot) holding at least a private pilot certificate, whereas the EASA AD does not mention this allowance. This action must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417 or 135.439.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable,

unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because the affected component is part of the propulsion system that is critical to the power of the helicopter. Partial icing of the affected component could result in engine flame out, engine failure, reduced control of the helicopter, and subsequent damage to the helicopter or injury to occupants. In light of this, required actions must be accomplished within 14 days or 40 hours time-in-service, whichever occurs first after the effective date of this AD. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include “Docket No. FAA-2022-0009; Project Identifier MCAI-2021-01459-R” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov>, including any

personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267-9167; email hal.jensen@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 213 helicopters of U.S. Registry. Labor rates are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Revising the existing RFM for your helicopter takes about 1 work-hour for an estimated cost of about \$85 per helicopter and up to about \$18,105 for the U.S. fleet.

Authority for this Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator.

Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39 - AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2022-02-17 Airbus Helicopters Deutschland GmbH (AHD): Amendment 39-21914;
Docket No. FAA-2022-0009; Project Identifier MCAI-2021-01459-R.

(a) Effective Date

This airworthiness directive (AD) is effective [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model MBB-BK 117 C-2, MBB-BK 117 D-2, and MBB-BK 117 D-3 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code: 7160, Engine Air Intake System.

(e) Unsafe Condition

This AD was prompted by reports of engine flame out following prolonged operations in falling snow with the inlet barrier filter (IBF) system installed. The FAA is issuing this AD to prevent partial icing of an IBF engine intake and engine flame out. The unsafe condition, if not addressed, could result in engine failure and reduced control of the helicopter, possibly resulting in damage to the helicopter or injury to occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) Emergency AD 2021-0289-E, dated December 23, 2021 (EASA AD 2021-0289-E).

(h) Exceptions to EASA AD 2021-0289-E

(1) Where EASA AD 2021-0289-E defines Retrofit SB, replace the text “AH Service Bulletin (SB) MBB-BK117 C-2-71-005, SB MBB-BK117 D-2-71-001 and SB MBB-BK117 D-3-71-001, as applicable, installing the IBF system,” with “AH Service Bulletin (SB) MBB-BK117 C-2-71-005 and SB MBB-BK117 D-2-71-001, as applicable, installing the IBF system; and for Model MBB-BK 117 D-3 helicopters, in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section,

International Validation Branch, FAA; or EASA; or Airbus Helicopters' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.”

(2) Where EASA AD 2021-0289-E requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(3) Where EASA AD 2021-0289-E refers to its effective date, this AD requires using the effective date of this AD.

(4) Where paragraph (1) of EASA AD 2021-0289-E specifies to “inform all flight crews, and, thereafter, operate the helicopter accordingly,” this AD does not require those actions.

(5) The action required by paragraphs (1) and (2) of EASA AD 2021-0289-E may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417 or 135.439.

(6) This AD does not mandate compliance with the “Remarks” section of EASA AD 2021-0289-E.

(i) Special Flight Permit

Special flight permits may be permitted provided that there are no passengers on board.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267-9167; email hal.jensen@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2021-0289-E, dated December 23, 2021.

(ii) [Reserved]

(3) For EASA AD 2021-0289-E, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; Internet www.easa.europa.eu. You may find the EASA material on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. This material may be found in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0009.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on January 13, 2022.

Lance T. Gant, Director,
Compliance & Airworthiness Division,
Aircraft Certification Service.

[FR Doc. 2022-01540 Filed: 1/24/2022 11:15 am; Publication Date: 1/26/2022]